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10/569,551	02/27/2006	Vallery Ilyich Smetannikov	0562690021	7736
20277 7590 04/24/2008 MCDERMOTT WILL & EMERY LLP 600 13TH STREET, N.W. WASHINGTON, DC 20005-3096				
EXAMINER BROOKMAN, STEPHEN A				
ART UNIT		PAPER NUMBER		
4114				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/569,551

**Applicant(s)**

SMETANNIKOV ET AL.

**Examiner**

Stephen Brookman

**Art Unit**

4114

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02/27/2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-8 is/are rejected.  
7) ☒ Claim(s) 1-8 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date 02/27/2006  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION*****Specification***

1.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

**Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. **Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading.** If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

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3. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.
4. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. **Examples** of some unclear, inexact or verbose terms used in the specification are: **the use of the term "FV" in the third paragraph on page 1, "the module construction" in paragraph 4 on page 1, and "for the consumption of energy of blow on the earth" in the first paragraph of the second page.**
5. The disclosure is objected to because of the following informalities: **on the 7<sup>th</sup> page, line 23, "cargo acceptance region 2" is not shown in the drawings. Further, item 2 on the drawings is simply "cargo," and should only be referred to as such. Item 18, accumulator, is referred to in multiple ways, including as "accumulator threshold 18" on page 7, line 4, and as "accumulator capacity 18" on page 7, line 22.**

Appropriate correction is required.

6. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within **the range of 50 to 150 words**. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. **The form and legal phraseology often used in patent claims, such as "means" and "said," should be**

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**avoided.** The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. **It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.**

7. The abstract of the disclosure is objected to because **the length of the abstract exceeds 150 words, uses legal phraseology including "means" and "said", and uses implied phrases, including "the invention relates to."** Further, the abstract is replete with terms which are not clear, concise and exact, as mentioned in item 4 above. **Examples of some unclear, inexact, or verbose terms in the abstract are: in line 3, the language "section of the aircraft means for fixing cargo," and in line 7, the language "with lower part thereof."** Correction is required. See MPEP § 608.01(b).

8. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

**The abstract should not refer to purported merits or speculative applications of the invention** and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;

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- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

9. The abstract of the disclosure is objected to because **the abstract refers to increased reliability and ease of use, as well as the language "thereby ensuring a high economical efficiency thereof."** Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

10. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

11. Claims 1 - 8 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

**Regarding Claim 1, the "lateral line" of the aircraft is not explicitly defined in the specification, and could be laterally from nose to tail or wingtip to wingtip or otherwise.**

**Regarding Claim 7, the term "draft fluting" is not supported by the specification.**

12. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. Claims 1-8 inclusive rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

**The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.**

**This makes it impossible to determine the metes and bounds of the claims. For example, in Claim 1, it is not clear where the claim transitions from intended use "for cargo placement on aircraft," to positive limitations. Also, it is not clear what structure is encompassed by the means plus function recitations of "means of providing of stowage fixation" and "mean for pallets fixation."**

14. Claim 2 recites the limitation "separate loads in stowage" in line 1. There is insufficient antecedent basis for this limitation in the claim.

15. The term "**near**" in claim 3, line 3, is a relative term which renders the claim indefinite. The term "near" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. **"Near to parallel lateral line" encompasses many orientations with the exception of perpendicular to the lateral line of the aircraft, which in itself, has not been defined, as discussed previously.**

16. Claim 8 recites the limitation "plates" in line 4. There is insufficient antecedent basis for this limitation in the claim.

The following claim rejections are based on the Examiner's interpretation of the claims as provided by applicant. Further support was provided in prior art oral translation assistance by John Koytcheff as well as a formal translation of RU 2,093,424, which is attached to this correspondence.

***Claim Rejections - 35 USC § 102***

17. The following is a quotation of the appropriate paragraph of 35 U.S.C. 102 that forms the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

18. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Kalinkin, et al (RU 2,093,424 C1).

With regard to Claim 1, Kalinkin discloses a device for cargo placement on aircraft and jettison off it, containing pallets (1) for stowage, installed in cargo compartment along a lateral line of the aircraft. Further, Kalinkin discloses detachable fixation facilities (i.e. locks, 37) which restrict lateral movement except for when opened, at which point pallet movement to the dumping/jettisoning position is permitted. These facilities (37) also allow for fixing the pallet position before jettisoning the cargo (2). Kalinkin discloses means for stowage on the pallets, including multiple (i.e., two or more straps 11) that wrap the stowage (i.e. cargo 2) vertically. These straps are arranged in such a way that they are in planes that are within proximity of (i.e. near to) each other. The straps are connected to each other over the stowage by annular strap (10). It is important



to note that the applicant's disclosure, on page 4, mentions the means for fixation as "buckles (stripes or drafts)" and therefore "buckles" is interpreted as ropes or straps.

Regarding Claim 2, as seen in Kalinkin (Figure 3), the cargo (2) is in the form of a stack of square sacks. Further, as described in Kalinkin in the first page of the original specification (lines 5-15) the loads of stowage can be placed in triple bags (i.e., sacks).

Regarding Claim 3, the straps are tightened (i.e. locked) around the cargo in multiple planes. The applicant's definition of lateral line of the aircraft is interpreted to mean along the flight path direction, and therefore there are at least two straps that are parallel to the plane containing this lateral line. The annular ring (10) acts as one cross flexible connection on top of the stowage.

With regard to Claim 4, Kalinkin also discloses protruding elements on the pallets in the form of ribs (3 and 4) and hooks (8), which, as interpreted by the Examiner, are for "prevention of shifting and creeping of stowage in their lower part." As this is intended use, this limitation is given little patentable weight.

With regard to Claim 5, Kalinkin further discloses side guide tracks (33) and roller strips (32). The pallets are installed between the guide tracks and can move on the roller strips by any number of applied forces.

Regarding Claim 6, as disclosed by Kalinkin, the facilities for pallets fixation (37) are detachable. These have been interpreted as locking mechanisms or restraints, for example.

With regard to Claim 7, Kalinkin also discloses the flexible draft (21) located across the lateral line of the aircraft, with one end attached to the rear transverse beam (20) and the other attached to the front transverse beam (19) of the aircraft, being the front and back portions of the cargo compartment. The Examiner interprets "draft fluting" of Claim 7 to be the parallel orientation of the draft (i.e. rope) along the aircraft. The draft (21) is connected to the cargo stowage fixation devices (Figure 2) by way of halyards (22), which feature freely movable rings (23, i.e. carabiners). There is one carabiner per pallet in the prior art device.

With regard to Claim 8, the angle plates are interpreted by the Examiner to be any plate-like element which raises the tracks on which the pallets ride to produce a height difference between the end of the tracks and the airplane ramp (area of accumulator 18 in application). Kalinkin discloses guide tracks (33) and strips (32) on which the pallets ride. These tracks and strips, which contain plates (visible in Figure 12), are attached to the ramp of the airplane (shown as the bottom angled portion of Figure 4) and the inclination of the ramp determines the angle of the plates, further determining the angle of the tracks and strips.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Brookman whose telephone number is (571)

270-5513. The examiner can normally be reached on Monday through Thursday 10:00 AM EST to 4:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Nguyen can be reached on (571) 272-6952. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen Brookman/

Examiner, Art Unit 4114